



State of Arizona Acupuncture Board of Examiners

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REGULAR MEETING

October 24, 2012

OPEN SESSION MINUTES

Members of the Arizona Acupuncture Board of Examiners met at 1:00 p.m. on Wednesday, October 24, 2012, at 1616 W. Adams, Arizona State Board of Pharmacy Meeting Room, Phoenix, Arizona.

Board Members Present:

Ross Adelman, Consumer Member, Chairman

Toni Bernalley, L.AC., Secretary

Maureen Bronson, Consumer Member

Woohyung Cho, L.AC., Professional Member

Dianne Darcy, L.AC., Professional Member

Robert L. Gear, NMD, DC, Professional Member

Patricia E. Martin, L.AC., Professional Member (via telephone)

Board Members Absent:

Christopher M. Clair, Consumer Member

Alan H. Scott, DO, Professional Member

Administrative Staff:

Pete Gonzalez, Executive Director

Attorney General Representative:

Montgomery Lee, Assistant Attorney General (via telephone)

Call to Order

Chairman Adelman called the meeting to order at 1:10 p.m.

The following order of business was then considered:

Declaration of Conflicts of Interest

No declarations were submitted by the Board Members.

Discussion and Approval of Minutes

Board Member Bronson moved the adoption of the August 22, 2012 regular board meeting minutes with Board Member Bernalley providing a second. The motion carried by unanimous vote: 7-0.

Adelman	Bernalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Scott	Vote
X	X	X	X		X	X	X		Aye
									Nay
									Recused
									Abstained
				X				X	Absent

Board Member Bernalley moved the adoption of the September 26, 2012 regular board meeting minutes with Board Member Adelman providing a second. The motion carried by unanimous vote: 7-0.

Adelman	Bernalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Scott	Vote
X	X	X	X		X	X	X		Aye
									Nay
									Recused
									Abstained
				X				X	Absent

Applications for Licensure (without self-disclosures)

The Board reviewed the license applicant chart and Board Member Bernalley moved for the approval of the applicant for licensure listed below with Board Member Bronson providing a second. The motion carried by unanimous vote: 7-0.

Lauren B. Phillips

Adelman	Bennalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Scott	Vote
X	X	X	X		X	X	X		Aye
									Nay
									Recused
									Abstained
				X				X	Absent

Executive Director Report

License and Certificate Status Report:

Active Licensed Acupuncturists: 534
 Expired Licenses: 8
 Active Certified Auricular Acupuncturists: 40

Board Office Information/Activities:

- Pursuant to Arizona Revised Statutes §32-3925 (B), license and certificate renewal notices for December 2012 licensees were prepared and sent. In addition, expired license and certificate letters for the month of September 2012 were sent.
- Completed and submitted the primary source verification for Coventry Health Care.
- Completed the Office of the Arizona Attorney General’s Annual Agency Survey on legal services provided to the Board.

Budget Information

- The office submitted the Fiscal Year 2014 budget request to the Governor’s office with three funding requests that total \$19,600. The requests include new appropriations to hire a contract rule writer, to contract with a temporary work agency, and to provide payment to all nine board members during the conduct of board business.

Legislation

Meetings with the legislature have begun in order to meet the November 15 deadline of agency bill requests. The Legislative Council staff will be drafting legislation for introduction in the regular session if the following are met:

- Each request must have a legislative sponsor.
- Each request should contain as complete and specific instructions as possible for staff to complete drafting the proposed legislation before the beginning of the session.
- Each request, meeting the foregoing requirements, must be delivered to the Legislative Council by 5:00 p.m., Thursday, November 15, 2012.

It is important to note that once a bill folder is opened in a legislator's name, the bill becomes the legislator's bill and not the agency's. Any subsequent instructions or changes regarding the bill including changes in the sponsor, should come through or with the explicit consent of the original legislator or that legislator's staff.

At this time, Senator Nancy Barto--Chairman of the Senate Healthcare and Medical Liability Reform Committee--has agreed to open a bill folder to have the Board's legislation drafted.

Professional Business

Review, Discussion and Possible Action on Sunrise Application: Increase in Scope of Practice of the Profession Acupuncture and Oriental Medicine as submitted by the Arizona Society of Oriental Medicine and Acupuncture (AZSOMA).

Elyse Tera, L.AC. and President-Elect of AZSOMA described the process used in the preparation of the herbal sunrise proposal. Ms. Tera stated a survey was conducted to secure the interest of the profession in having an expansion in the scope of practice. To better inform the profession on the proposal, the AZSOMA has been conducting Town Hall meetings throughout the state.

John Rhodes, L.AC. stated he was pleased and impressed with the work that has been done to arrive at this time with the herbal proposal.

Jonathan Lindsey addressed the Board and shared that all acupuncturists have been invited to participate in the development of the herbal proposal. Mr. Lindsey informed the Board that a majority of practitioners are supportive of the effort to expand their scope of practice to include full use of herbs. Mr. Lindsey explained the latest version of the proposal to the Board along with the FAQ sheet and pathways guide.

Board Member Gear is concerned this proposal is opening a door that may pose some problems for existing licensed acupuncturists.

Board Member Adelman asked if endorsements or support of this proposal are in writing. Mr. Lindsey stated that health provider profession organizations are those in support and not the regulatory boards of these professions.

Board Member Bronson wondered how the FDA would view this proposal.

Board Member Adelman expressed his concern on how best to carry out the regulation of this new proposal. Furthermore, Board Member Adelman as a consumer representative on the Board, wants to make sure this proposal is feasible, supportable, executable and enforceable.

Mr. Lindsey agrees that changes will be required to make sure this proposal meets the desired goals. The current version of the proposal may not be the version the Legislature will review and discuss at the sunrise hearing.

Assistant Attorney General Montgomery Lee reviewed the steps leading to the introduction of legislation to accomplish the change in scope of practice in the herbal arena.

Board Member Martin spoke to the issue of compounding and the potential problems with the use of this term in the proposal. Board Member Martin believes the proposal is premature and should be withdrawn and the issue should be further studied before going to the legislature. Board Member Martin stated she would be happy to make a motion to have this proposal withdrawn when the Board is ready.

Mr. Lindsey spoke to the high level of interest and support for this proposal expressed by attendees of the Town Hall meeting being conducted.

Board Members Bronson and Adelman are concerned with the lack of clarity of the Board's role and ability to carry out the charge of this new proposal.

Board Member Bernalley is concerned with the cost of this new proposal to licensees and potential impact to the Board's operational budget and ability to meet the charge of herbal regulation. Additional board members shared similar concerns and thoughts.

Board Member Cho asked if and how non-acupuncturists or how unlicensed individuals using herbs regulated while licensed acupuncturists would be bound by this new herbal requirement. Board Member Cho wondered how this proposal can be implemented and enforced in a balanced format so licensed acupuncturists are not put in an unfair position with the public and their patients.

The Board thinks more work is needed on this proposal so the legislature approves the proposal with minimum harm to the profession.

Ms. Elyse Tera concluded by stating she looks forward to working with the Board on this proposal and on future endeavors.

Board Member Gear left the meeting at 3 p.m. and Board Member Martin at 3:30 p.m.

Arizona State Board of Physical Therapy Public Meeting on the Use of Dry Needling

The Arizona State Board of Physical Therapy is seeking information and comments from the public on the use of dry needling by licensed physical therapists.

On Wednesday, October 24, 2012 at 5:30 p.m., the Arizona State Board of Physical Therapy will be hosting a public meeting. A copy of the meeting notice and location was shared with the Board and the public.

Appointment of Board Members to Joint Committee with the Arizona State Board of Physical Therapy regarding Dry Needling.

As a result of discussions with the President and Executive Director of the Arizona State Board of Physical Therapy, a joint committee will be created to further examine the topic of dry needling.

This joint committee will be established once the Arizona State Board of Physical Therapy conducts and completes its public meetings on dry needling.

The Acupuncture Board of Examiners will appoint three individuals at the next board meeting to this joint committee.

Board Members Bronson and Bennalley volunteered to serve on this committee.

Future Meeting Dates

November 5, 2012 (Monday)

December 3, 2012 (Monday)

Call to the Public

Deborah Malone, L.AC. and former Board Member and Chair, urged the Board to not support the herbal proposal for several reasons. She is offended to read the proposal and find language that presumes acupuncturists are practicing without appropriate training.

David Epley, L.AC. and President of the Arizona School of Acupuncture and Oriental Medicine in Tucson shared his thoughts on the herbal proposal. He wouldn't mind if this proposal was held until additional work is done to improve the measure.

Della Estrada, L.AC. and former Board Member and Chair, feels the proposal is not ready for consideration by the legislature. She hopes more work can be done in a more cooperative manner between all parties.

Jessica B. Jordan, L.AC. informed the Board she would qualify for the herbal certificate as proposed, but is concerned with the process utilized in the draft of the proposal. The proposal is too complex, confusing and expensive. Too many practitioners would lose patients due to the contents and requirements of the proposal. We, in Arizona, have a great safety record in the practice of herbs.

Tutsie Silapalikitporn, L.AC. and former Board Member has a number of concerns with the proposal. Ms. Silapalikitporn is puzzled on the urgency of moving this proposal at this time. She urges the Board to not support the proposal. We must work together as a team to protect the public and provide high quality acupuncture and oriental medicine.

Rik Ehmann, L.AC. spoke to the need for a prescribed amount of acupuncture training for physical therapists before they present their treatments as acupuncture. Likewise, acupuncturists should be able to secure a prescribed amount of physical therapist training in order to practice physical therapy.

Valerie Hobbs, licensed acupuncturist from Colorado, shared her thoughts regarding physical therapists performing acupuncture under the terms such as dry needling, trigger point therapy, and other terms. She informed the Board of an Oregon court hearing whereby the Oregon Chiropractic Board, who adopted a rule to perform acupuncture, was

instructed to prevent the rule from taking effect. Ms. Hobbs will be attending the stakeholder meeting on dry needling later today to share your thoughts and counsel.

Y.M. Chen, L.AC. stressed the need for AZSOMA and the Board to continue their efforts in communicating on issues of mutual interest. The acupuncture community is best served by all parties sharing information for the benefit of the general public.

Elyse Tera, L.AC. addressed the Board regarding the appointment of members to the joint committee with the Arizona State Board of Physical Therapy. She requested that a member of the AZSOMA be considered for appointment.

Discussion of Items to be place on a future meeting agenda

- AZSOMA Sunrise application
- Dry Needling efforts with the Arizona State Board of Physical Therapy to include appointment of board members to joint committee
- Strategic Plan
- Legislative Agenda

Adjournment

Board Member Bronson moved for adjournment and Board Member Darcy provided a second. The motion carried by unanimous vote: 5-0. The Board adjourned at 3:40 p.m.

Adelman	Bennalley	Bronson	Cho	Clair	Darcy	Gear	Martin	Scott	Vote
X	X	X	X		X				
									Nay
									Recused
									Abstained
				X		X	X	X	Absent

Respectfully Submitted,



Pete Gonzalez
Executive Director

Approved by the Board: December 3, 2012